

Central Florida Commuter Rail Commission
Governing Board

MEETING MINUTES

DATE: Friday, November 13, 2009

TIME: 3:30 p.m.

LOCATION: Metroplan Orlando
Board Room
One Landmark Center
315 East Robinson Street, Suite 355
Orlando, Florida 32801

- Call to Order – Chairman Dyer
 - a. Chairman Dyer called the meeting to order at 3:36 p.m.
- Pledge of Allegiance
- Confirmation of Quorum – All members were present
 - a. Mayor Buddy Dyer – Chairman, City of Orlando
 - b. Mayor Rich Crotty – Vice-Chairman, Orange County
 - c. Commissioner Carlton Henley – Secretary, Seminole County
 - d. Chairman Frank Bruno – Volusia County
 - e. Commissioner Brandon Arrington – Osceola County
- Agenda Review – FDOT District 5 Secretary Noranne Downs
 - a. Secretary Downs provided the agenda review.

ACTION ITEMS

1. Adoption of December 19, 2008 meeting minutes – Chairman Dyer
 - a. The meeting minutes were unanimously adopted.

DISCUSSION ITEMS

1. Chairman's Report – Chairman Dyer
 - a. Chairman Dyer said that quite a few developments have occurred since the commission last met and there was a good possibility that a special session of the Florida Legislature would be called the second week in December. There has been a lot of movement. Most recently, CSXT and the state of Massachusetts reached a liability agreement that is a little bit different from the liability provisions that we have here in the state of Florida. CSX

has indicated they are willing to extend those same provisions, perhaps extend even a little bit more favorable terms to the state of Florida, and that should take care of that issue. The CFO and the Attorney General are both involved in monitoring those discussions, and Chairman Dyer said he anticipates they would both give their support to SunRail and the liability agreements.

- b. Chairman Dyer said that there's also a lot of momentum statewide, and that Central Florida leaders are working together with Tri-Rail folks in South Florida to make sure we have those votes. Chairman Dyer said that he joined State Senator Ted Deutch in a meeting with the FTA Administrator in DC several months ago, where it was laid out in no uncertain terms to Sen. Deutch that if we did not move on both SunRail and Tri-Rail there would be very little possibility of us being successful with high speed rail. He said that message has been reiterated a number of times. Secretary LaHood came and said that in the room downstairs. Sen. Lemieux was here recently to reiterate that message. So the opportunity for the state of Florida to have high speed rail is very contingent on us having a special session for SunRail and also finding a dedicated funding source for Tri-Rail.
- c. Chairman Dyer said that Sen. Deutch indicated a favorable response to that. He wants to make sure that the Tri-Rail situation gets fixed. Sen. Thrasher is a yes vote. And if Chairman Dyer were to tally the votes right now, he would put us at 21. We continue to work on the labor issue. There are even meetings ongoing today between labor and some of the members to see if there is language they can fashion to accommodate everyone. If we resolve the labor issue, we end up at 28 – 29 votes in support. The House is waiting on the Senate to in fact tell them that they have the votes. They want to make sure they have the language that everyone can agree upon, Chairman Dyer said.
- d. Chairman Dyer said that the Florida Department of Transportation also has made applications for high speed rail money. They made three separate applications that I guess morphed into four. One is for high speed rail, and they separated two components: construction dollars for the system that runs from Tampa to Orlando and the second is design money for a system that would run from Orlando to Miami. The second application is for the rail connection between Miami and Jacksonville to upgrade that line; and the third application is for \$270 million to offset a portion of the purchase price for the CSX-SunRail rail line. We don't anticipate we'll get the whole \$270 million, but we do anticipate that we will get something out of that to help defray the cost. The other thing you should know is that the financing package that DOT put together initially contemplated \$179 million worth of fixed guideway bonds. It's likely we'll go forward with Federal Railroad Administration Railroad Rehabilitation Improvement Finance program debt, which is issued by the federal government and would give us a more favorable rate than fixed guideway bonds. Otherwise the funding remains in place. The FTA

Administrator and staff took a site visit and said you guys get the liability provisions passed and we're ready to go. As much as they don't love us in Tallahassee, they do love us in D.C.!

- e. Chairman Dyer said that local governments need to vote to extend interlocal agreements. He said he believed that 4-5 entities have already voted to extend; Volusia County is still to come.
- f. Chairman Dyer said the commission continues to get strong support from business advocacy groups in Central Florida, Miami and Tampa. He said he received a call today telling me that a couple of the no votes in Tampa were really being leaned on by the Tampa Bay Partnership and they're willing to listen to what we have to say.

2. Project update – Ms. Downs/Ms. Olore

- a. Secretary Downs said that the Florida Department of Transportation has performed an economic impact analysis and that the SunRail project would add 45,000 jobs to Volusia County, 29,000 jobs to Seminole County, 122,000 jobs to Orange County and 40,000 to Osceola County. There's probably no better time from what we're reading about unemployment for this project, she said.
- b. Secretary Downs said the FDOT met with FTA executives from Washington and Atlanta and we actually had FDOT, FTA, local leaders and LYNX – we took a Lynx bus and drove around to the SunRail station sites. We actually stopped off at Florida Hospital and Rich Morrison gave a presentation of what this project means to the economy, what it means to the growth of the hospital. And that's just one example of many regarding what this project means to Central Florida. We are still meeting with the FTA. We talk on the phone at least once a month about where we're at with the Full Funding Grant Agreement status. They continue to think this is a very good -- excellent project. As soon as we get the go ahead from the Legislature, we will pick up the remainder of the right of way that we need to move forward toward the Full Funding Grant Agreement. We're continuing to move forward with work on some documents with regard to the Supplemental EA timeline.
- c. Ms. Olore said that FDOT also has been working with Federal Transit Administration regarding the move to "push-pull" technology after Colorado Railcar went out of business. Because of that, FDOT needs to do some technical analysis and update environmental documentation. Because we need to update that document for the vehicles, we're also looking at our Phase II stations. So we've been meeting with Volusia County for the DeLand station, Osceola County for all of their stations, as well as Meadow Woods to get those stations cleared. We are looking ahead to Phase II even though we need to get past liability. We looked at our schedule based on the legislative action last year, and looked to see when we could open up Phase I. Once we get an action from the Legislature this year, we will immediately continue on with our environmental documentation, check all the boxes for the Full Funding

Grant Agreement, engineering is complete for our stations, and look to have our Full Funding Grant Agreement by August, September 2010 and an opening of Phase I in 2012.

- d. Ms. Olore said that FDOT will immediately continue on with Phase II and look to start Preliminary Engineering for Phase II in the Spring of next year. That gives you a timeline of the delay and how you push forward from here with remaining items for the Full Funding Grant Agreement.
3. Chairman Dyer said he believed that the Colorado Railcar company had been brought out of bankruptcy and asked whether there was potential to use those vehicles again?
4. Ms. Olore said that another company did buy the technology, but that FDOT hasn't examined when they may be up and running. Their time line may be too slow for our timeline, but we will certainly look into it. But that doesn't mean that if their timeline is a little slower than ours, we may be able to do those vehicles for Phase II. We'll look at that as their financial picture becomes a little clearer. The problem with a start-up is to ensure that their financial rating is OK in order to get the federal dollars of support.
5. Secretary Downs said she was ready to keep striking the ground and build the train.
6. Technical Advisory Committee – TAC Chairman Roger Neiswender
 - a. Mr. Neiswender said that the Technical Advisory Committee met three times since last meeting, Feb. 11, March 4, and June 3. He said the TAC was very active leading up to and during the legislative session. Since then we've been waiting for direction from the Legislature. But prior to that time, we were actively involved reviewing all the numerous procurement efforts that FDOT has ongoing, including the DBM, CEI, vehicles, Operations and Maintenance and Long Lead items contracts to purchase items that had to be brought in early to keep us on track and on schedule. We were very much involved in all that. We dealt every month at our meetings with the right-of-way acquisitions. After sessions, different entities would get together and talk about their acquisitions. I think we had a real good working relationship between the DOT acquisition people and local governments feeding information back and forth.
 - b. Mr. Neiswender said that the DOT made substantial progress on right of way acquisitions, but now we're in a holding pattern until we know we're going forward for sure. We dealt with station designs and most of those issues have been worked out and resolved, pending further direction.
 - c. Mr. Neiswender said that TAC members also received a detailed public involvement briefing from myregion.org and Shelley Lauten about the public perception of what we were doing, what the public needed to know and what they did not know, and what they perhaps thought they erroneously knew. So we were always cognizant about trying to provide information back and forth to the public, so that we could present full information to the public and they could actively engage and move forward.

- d. Mr. Neiswender said that TAC members believe that meetings have gone very well, and we're very excited about getting back to work. We have our next meeting next Wednesday. We're excited about cranking back up and hopefully this time moving all the way to completion.

BOARD MEMBER COMMENTS

1. Board member comments
 - a. Chairman Dyer pointed out that each Board member had received a copy of the City of Orlando's Historic Preservation Board calendar, which highlights the city's two historic train stations. The city is all things rail, at least on calendars. There's also a fact sheet on liability issues included in packets for board member review.
 - b. Chairman Bruno said he understood that the Massachusetts Bay Transit Authority agreement with CSX is a model for rail liability agreements across the country, as well as for contributions that CSXT would make. He said he understood that was an issue for a number of state Senators. Chairman Bruno asked Chairman Dyer whether he had an opportunity to meet with state Senators regarding the additional information we've receive here.
 - c. Chairman Dyer said he has met with a number of senators on a whole myriad of issues, whether it's the labor issues, the money issues, the liability issues. And I think that having these initial liability provisions will give the Senators who want to be with us the comfort they need. There are still some that have issues related to unions and labor and other challenges that are unresolved.
 - d. Chairman Bruno asked whether the Senate will consider the same bill during the Special Session that was presented earlier this year, or will it be a different bill?
 - e. Chairman Dyer said it is likely to be a more comprehensive bill that is not solely focused on SunRail. He said he has not actually seen the bill drafted, as it's in the bosom of the Senate. But he said he has been told by the Senate President, his chief of staff, and Senators working on it that it will have potential components that include some form of a statewide rail commission. He said he was unclear what their powers would be, whether they would simply take up where the old High Speed Rail Commission left off. There is the potential that beyond the rental car surcharge, there might also be a new funding mechanism. The legislation would also deal with the issue of a dedicated funding source related to Tri-Rail. He said it was unclear exactly the form that would take in order to have statewide application, or whether it would be just for South Florida. And it may contain other things of importance on a statewide basis related to rail. Chairman Dyer also said he has been led to believe that there will be no other issues brought up during Special Session, such as gaming or drilling. He said the believed that the Senate definitely will craft a new bill. The

liability will be different, potentially the funding will be different, and it will include the funding for Tri-Rail.

- f. Chairman Dyer also mentioned that if Board members saw the debate on the floor of the Senate last session, a question was asked about a bus load of children parked on the railroad tracks and hit by a CSX train. Chairman Dyer said the question was answered incorrectly that the state would have liability with that. CSX would have liability for that. And they're making that very clear in the language.
- g. Chairman Bruno thanked Chairman Dyer and said that Sen. Paul Dockery had asked to appear before the Volusia County Council. If the Senator does appear, Chairman Bruno asked if Chairman Dyer would attend as well. Chairman Dyer accepted the invitation.
- h. Mayor Crotty asked about the rental car surcharge. He said he understood the rental car surcharge was the subject of dispute between the House and Senate and requested clarification.
- i. Chairman Dyer said the bill may end up with two funding sources, but reiterated that he had not seen the actual bill. The rental car surcharge would be likely a short term solution for South Florida replaced by some other form of dedicated funding through the statewide commission.
- j. Mayor Crotty asked whether there was a chance that after the Special Session, South Florida could wind up with a rental car surcharge and Central Florida would not?
- k. Chairman Dyer said that was the way the bill was drafted this year. However, this year, moving forward, he said he believed that there will be statewide application. However, he stressed he could not verify that would be the case, because he has not seen the bill.
- l. Mayor Crotty said he wanted to congratulate Chairman Dyer and other members of the commission, and all who were in attendance – some higher profile and some behind the scenes. He said there have been numerous meetings going on, all over the state, in support of the legislation. He said he believes that victory is within our reach, and I just wanted to say thank you to all of the people involved.
- m. Commissioner Henley said he understood that South Florida was seeking an increase in the rental car surcharge in a new bill from \$2 to \$4. He asked whether that was still the case.
- n. Chairman Dyer said he believed that South Florida had suggested that solution, but it did not appear that too many legislators have voiced their support for that proposal. One of the ideas was to have an additional \$2 surcharge, not voted on locally but simply imposed by the Legislature. The mechanism for raising the money would have been the same, but the distribution would have been different. But again, not too many legislators were supportive.
- o. Chairman Henley said he was not surprised. He echoed Mayor Crotty's remarks that efforts to pass the legislation have been outstanding. He said a great deal of acclaim needs to go to Chairman Dyer if the legislation

passes – if the Senate is intelligent enough and has the fortitude to do the right thing.

- p. Commissioner Arrington asked whether there were any other rail cars that were similarly priced to those that would originally have been provided by Colorado Railcar.
- q. Ms. Olore said that when Colorado Railcar went out of business, FDOT put out a new procurement because of the change in technology. The bids came in actually a little lower than the original bids for the Colorado rail car, utilizing existing technologies.

PUBLIC COMMENTS

- 1. Public comments
 - a. Joanne Counellis of Lake Mary said she supports SunRail and urged Chairman Dyer to keep Paula Dockery out of here. I don't want her any more. I don't want to see her face in my newspaper again. She is not to be invited at all. I don't want Paula Dockery to be our governor either. Get her out of there. And keep the people who vote with her, away from us.

NEXT MEETING

- 1. Review of meeting dates, times and location
 - a. Chairman Dyer said the next meeting of the commission will be in December, and that he was hopeful discussion at the next meeting will be about the implementation of SunRail, and not the liability legislation.

ADJOURNMENT

Chairman Dyer adjourned the meeting at 4 p.m.